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Paper No. 7

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JUL 11 2003

OFFICE OF PETITIONS

In re Application of :
Darus J. Preisler :
Application No. 10/016,274 : DECISION ON PETITION
Filed: October 30, 2001 :
Attorney Docket No. VEI 0368 PUS :

This is a decision on the petition under 37 CFR 1.53(b), filed April 11, 2002, to accord the above-identified application a filing date of October 30, 2001, with Figures 3, 4, 5, and 6 as part of the original disclosure. The Office apologizes for the delay.

Application papers in the above-identified application were filed on October 30, 2001. On January 14, 2002, the Initial Patent Examination Division mailed a Notice to File Missing Parts of Nonprovisional Application, notifying applicant that the application papers had been accorded a filing date. However, the oath or declaration was missing, and Figures 3, 4, 5, and 6 appeared to have been omitted. This Notice set a two month period for reply. On February 12, 2002, applicant filed an executed declaration and surcharge for its late filing. However, applicant did not file a reply concerning the omitted Figures. Accordingly, a Notice of Omitted Items in a Nonprovisional Application was mailed on March 8, 2002. This Notice set a two month period for reply.

In support of the petition to accord a filing date of October 30, 2001 with Figures 3, 4, 5, and 6 as part of the original disclosure, applicant has submitted a postcard receipt identifying this application, itemizing "# of drawing sheets - 2" as enclosed, and bearing a United States Patent and Trademark Office date-stamp of October 30, 2001.¹

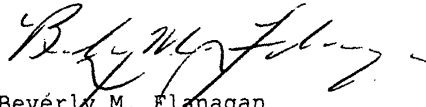
¹ The front of the postcard receipt contained a USPTO stamp reading "The PTO did not receive the following listed item(s)" and with "drawing pages 2" handwritten in. The Manual of Patent Examining Procedure states that when "the postcard receipt has been annotated to indicate that a particular item denoted on the postcard was not received by the USPTO, the postcard receipt

A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the Office of all items listed thereon on the date stamped thereon by the Office.²

Accordingly, the petition is GRANTED.

The application file will be forwarded to the Office of Initial Patent Examination for further processing with a filing date of October 30, 2001, using the drawing figures filed on that date and Figures 3, 4, 5, and 6 supplied on petition filed April 11, 2002.

Telephone inquiries related to this decision should be directed to Petitions Attorney Cliff Congo at 703-305-0272.


Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions

will not serve as *prima facie* evidence of receipt of that item in the USPTO." MPEP 503. However, the application file reveals the presence of 1 page of drawings filed on October 30, 2001. Accordingly, it is concluded that the stamp indicating that the USPTO did not receive 2 pages of drawings was stamped in error.

² MPEP 503.